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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,561	11/16/2000	Gregory Ashton	AA315X/KL	6013
27752	7590	12/04/2003	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			KIDWELL, MICHELE M	
			ART UNIT	PAPER NUMBER
			3761	
DATE MAILED: 12/04/2003				

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/700,561	ASHTON ET AL.
	<b>Examiner</b> Michele Kidwell	<b>Art Unit</b> 3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 November 2000.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,4-5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4,5 and 7-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## DETAILED ACTION

### ***Allowable Subject Matter***

The indicated allowability of claims 1, 4 – 5 and 7 – 10 is withdrawn in view of the reference to Van Gompel (EP 0 547 497 A2). A rejection based on the reference follows.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: the applicant claims that seams join the ear panel to a corresponding portion in the opposite region (4<sup>th</sup> ¶). Since multiple regions are disclosed, it is unclear what region the applicant intends to refer to. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 – 5 and 7 – 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Gompel et al. (EP 0 547 497 A2)

With respect to claim 1, Van Gompel et al. (hereinafter “Van Gompel”) discloses a disposable garment having a front region, a back region, a crotch region between the front region and the back region (figure 6), the disposable garment comprising a chassis

having a topsheet (34), a backsheet joined with the topsheet (20), and an absorbent core (32) interposed between the topsheet and the backsheet (figure 7), the chassis having a central panel having a waist edge and side edges, an ear panel having a waist edge, and a waistband panel in the front region and the back region, wherein the ear panel extends laterally outwardly from each side edge of the central panel, and the waistband panel extends longitudinally outwardly from the waist edge of the central panel and the waist edge of the ear panel (see below)

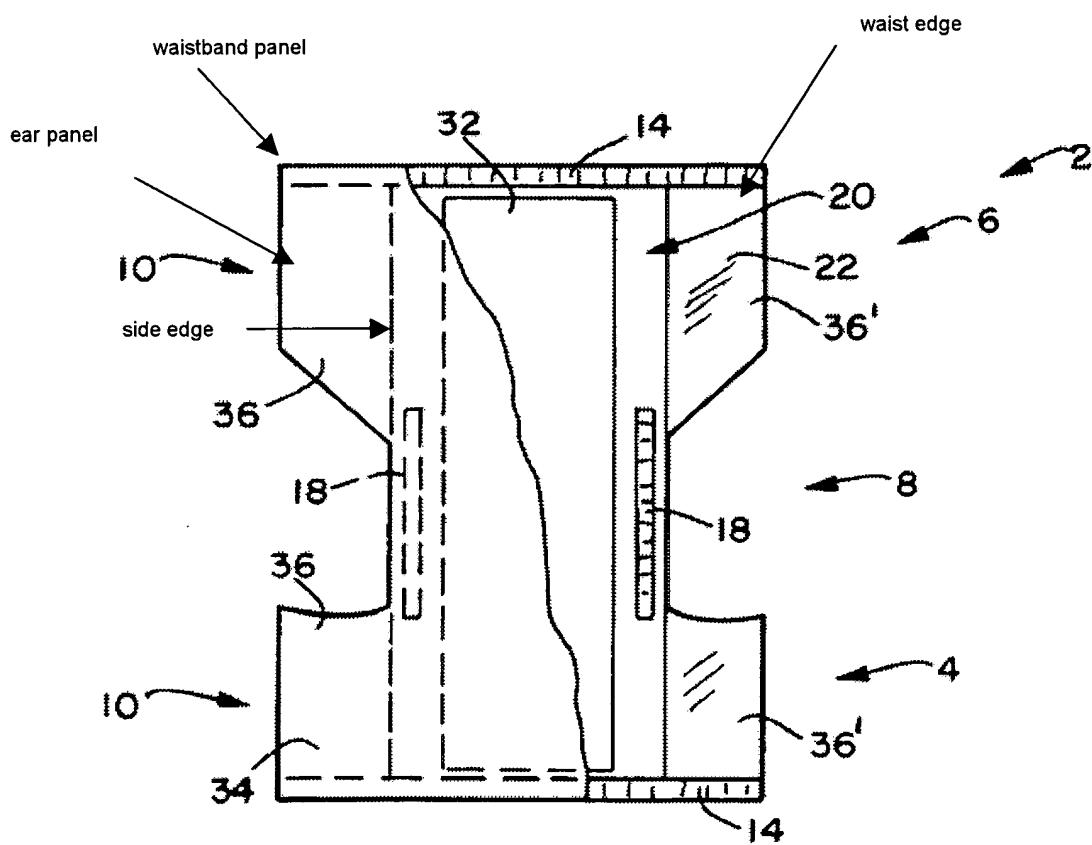


FIG. 6

a waist elastomeric material joined to and extending continuously along the waistband panels in the front region and the back region so as to form a continuous extensible waistband in the front region and the back region (col. 5, line 57 to col. 6, line 2), a side elastomeric material joined to the ear panel so as to form extensible ears (44), wherein the side elastomeric material and the waist elastomeric material are separate elements and are disposed so as not to overlap each other (figure 5) and seams joining each ear panel to a corresponding portion in the opposite region so as to form two leg openings and a waist opening such that the extensible waistbands form a continuous extensible waist feature as set forth in figures 1 – 3.

As to claim 4, Van Gompel discloses a disposable garment wherein the extensible ear is formed from a “zero strain” stretch laminate through the incorporation of US 4,940,464 in col. 9, lines 33 – 39. US 4,940,464 (Van Gompel et al.) teaches the use of “zero strain” stretch laminates in col. 4, line 31 to col. 5, line 32.

With respect to claim 5, Van Gompel discloses a disposable garment wherein the waist elastomeric materials comprise two separate elements, one of which is joined to the waistband panel in the front region, the other of which is joined to the waistband panel in the back region (figure 6), wherein the two elements are connected to each other at the seams as set forth in figures 1 – 3.

As to claim 7, Van Gompel discloses a backsheet comprising an inner barrier film and a nonwoven outer cover, wherein the nonwoven outer cover is superposed outside the inner barrier film as set forth in col. 4, lines 38 – 57.

With reference to claim 8, Van Gompel discloses a garment wherein the extensible waistband comprises an extended portion of the outer cover and the waist elastomeric material as set forth in col. 8, lines 36 – 41.

With respect to claim 9, Van Gompel discloses that the extensible ear comprises an extended portion of the outer cover and the side elastomeric material as set forth in col. 8, lines 42 – 54.

As to claim 10, Van Gompel discloses that the waist elastomeric material is superposed inside an innermost surface of the garment as set forth in col. 8, lines 36 – 41.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone number for the organization where this application or proceeding is assigned is 703-305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Michele Kidwell  
Michele Kidwell  
November 28, 2003

  
WEILUN LO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700